

Received & Inspected JUN 23 2010 FCC Mail Room

1319 New Sunnybrook • P.O. Box 2035 • Tyler, Texas • 75710 • 903-262-1000 • Randy Reid, Ed. D., Superintendent

June 21, 2010

Marlene H. Dortch, Secretary Federal Communications Commission Office of the Secretary 9300 East Hampton Drive Capitol Heights, MD 20743

Sent Via Federal Express

CC Docket No. 02-6

CC Docket No. 96-45

RE: Appeal - Request for Review and Waiver of Rules for Decision by USAC-SLD

Organization Name: TYLER INDEP SCHOOL DISTRICT

BEN: 140714

Contact Person: John Orbaugh

1319 New Sunnybrook

Tyler, TX 75701 (903)262-1085

john.orbaugh@tylerisd.org

Form 471: 667379 FRN: 1890273

Dear Secretary Dortch,

Tyler Independent School District respectfully submits this appeal in accordance with procedure designated by the Commission and after following suggested prior remedies.

Reason for Request and Timeline

This Appeal is a Request for Review and Waiver of the Rules in conjunction with a funding decision and appeal decision levied by the Universal Services Administrative Company (USAC) Schools and Libraries Division (SLD). Tyler Independent School District (TISD) is an applicant in the Universal Service Fund E-rate program with a Billed Entity Number (BEN) of 140714, and is submitting this Appeal on our own behalf.

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In September of 2009, USAC began a Selective Review process on Funding Year 2009 for our District. There was significant correspondence between the School District and USAC PIA Review personnel regarding our Gigaman wide-area-network (WAN) Service and whether an RFP was issued related to that service and furthermore whether the Form 470 identified that an RFP was issued. On February 2, 2010, a Funding Commitment Decision Letter (FCDL) was issued for the priority 1 services of TISD. There was a denial for the Gigaman WAN service on this FCDL. On April 1, 2010, TISD submitted an Appeal to USAC-SLD regarding the denial of funding for the Gigaman WAN Service. On May 5, 2010, TISD received notification of denial of the Appeal.

The FCDL and Administrator's Decision on Appeal documents are attached.

The detail of the Appeal to USAC is provided below and provides all of the background information related to this issue.

Source of Denial: FCDL Dated 02/02/2010

Denial Reason: DR1: FRN is denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.

Background Information

Tyler ISD has an existing Gigaman WAN service provided by Southwestern Bell/AT&T which has been in place for several years. At the time of the application process for Funding Year 2009, the previous contract had expired and we were on a month-to-month payment arrangement which was costing both Tyler ISD and the E-rate program more than necessary. Our original intention was to simply sign a new multi-year agreement on the existing service which would lower the costs for both the District and the Universal Service Fund.

Prior to us filing our Form 470 for Funding Year 2009, we were contacted by another provider of high-speed network services to find out if they could bid on the WAN services. There were only two public utility providers of this type of service in our community at the time (which we believe is still true today), the existing provider and the one who contacted us wishing to bid. It appeared that this provider would need to supply these services under the Internet Access category. Therefore, we added the RFP available designation in the Internet Access section of the Form 470. We did this in an effort to promote fair, open, and competitive bidding.

Once we posted the Form 470 on the SLD website and posted the RFP on our website, we notified both providers that the Form 470 and RFP were available, via e-mail. We also ran a newspaper ad stating that the RFP was available on our website according to state purchasing law requirements.

We are including multiple items of evidence to show that there was notification of the RFP as follows:

1. Form 470 with references to RFP notification (Attachment 1.PDF)

- 2. Communication with prospective bidders (Attachment 2.PDF)
- 3. Newspaper Legal Advertisement (Attachment 3.PDF)
- 4. E-mail to TISD Communications Dept. regarding RFP posting (Attachment 4.PDF)
- 5. E-mail regarding problems with SLD website (Attachment 5.PDF)

In the end, there was no contact from the service provider who originally wanted to offer an alternative solution for this service. There was also no contact or request from any other service providers in regard to submitting a proposal. We only received one response and it was from the existing provider. Although they provided an existing service from the telecommunications category of service, they went through the process of submitting a response that was in line with the requirements of the RFP to make sure they were in compliance.

Although the uniqueness of this situation may have caused an unorthodox approach, we believe the supporting documentation shows that we exhausted all efforts to provide notification of an RFP and create an atmosphere of fair, open and competitive bidding. We also did not reject any bids due to non-compliance with the RFP, nor deny any service providers opportunity to submit a response. It is apparent from the multiple efforts of notification that we were not trying to hide the RFP process, nor do anything that would prohibit competitive bidding.

One item that may be key in the decision that was made and the corresponding communication is our belief that the RFP radio button was selected for Internet Access during the original application process. We believed this so strongly that we even missed that it was not selected on supporting documentation that we sent during the Selective Review. We cannot explain this and do not have any way to prove this. However, we are including an e-mail that identifies that there were issues with the on-line application site during submission of the Form 470 that pertains to this FRN.

We do not believe any rules were violated and denial of this funding will create an undue financial hardship on the District, and place us in an inequitable position with other school districts.

We are appealing this decision based on the following information:

- 1. We believe that the radio button identifying that an RFP was available was selected on the Form 470 and at some point during the finalization process, the radio button became unselected through possibly a technical system error. There have been numerous problems with the USAC on-line system for processing E-rate forms over the years, hence the re-design and move of the system at the beginning of the Year 13 Application process. Attachment 5.PDF is an e-mail that identifies problems with the site during attempts to submit the form in question.
- 2. The denial reason states that there was a failure to advise bidders that an RFP was issued, however this is not true. Evidence submitted during the Selective Review process and included as Attachment 2.PDF, Attachment 3.PDF and Attachment 4.PDF here show that multiple efforts were expended to notify potential bidders that an RFP existed, including: website link, newspaper ad and direct correspondence to known potential bidders.
- 3. The Form 470 clearly identified that this service was requested. Had there been bidders interested in providing the service, they would have been more likely to submit a response if no RFP was present, than if one was present. It would have also been likely that potential bidders would have contacted the Technology Director for information regarding requirements. There were no inquiries of this

nature and furthermore, there was only one proposal submitted and that was by the Service Provider who was already providing the service.

- 4. No bids were rejected due to not meeting RFP requirements. Therefore no harm was done to any bidders due to an RFP being available.
- 5. All other program rules were followed in every detail.
 - a. State of Texas purchasing laws were followed.
 - b. The required 28 day waiting period was observed.
 - c. RFPs were created, evaluated and vendor selections made according to the program rules.
 - d. All forms were submitted within the filing window.
 - e. Documentation of forms, communication with vendors and processes followed were maintained and made openly available during the review process.

Additional Supporting Information

Tyler ISD recently completed an exhaustive beneficiary audit covering three years of submissions in August of 2009 (see page 2 - Attachment 6.PDF). If you review the outcome and notes from that process, you will find that Tyler ISD takes extreme measures in an attempt to be in perfect compliance. In fact, the outcome of no findings of procedural issues on a beneficiary audit that covered multiple years and millions of dollars of applications and funding is somewhat remarkable. If you include the fact that our District has 31 sites and 18,200 students, it seems to clearly support the fact that Tyler ISD takes the approach of being fully compliant with the program rules.

We would appreciate your consideration of all information regarding this appeal. Please let me know if I can be of assistance with any additional information.

*********** End Original USAC Appeal ************************

The circumstances surrounding this service and the Form 470/RFP process were somewhat unique due to limited potential providers and the two known potential providers being in different service categories. However, our efforts were all towards creating the most open and competitive bidding environment possible.

To summarize our request we provide the following information:

- Whether the Form 470 radio button identifying that an RFP was available for this service was unselected due to a ministerial clerical error, or a technical system error, all other actions by TISD show the intent to utilize an RFP.
- Although the FCDL denial reason states that there was a failure to advise bidders that an RFP was issued, actions and documentation show that multiple efforts were expended to notify potential bidders that an RFP existed, including: website link, newspaper ad and direct correspondence to known potential bidders.
- The Form 470 clearly identified that this service was requested. Absence of an RFP should have created more responses rather than fewer.

- No bids were rejected due to not meeting RFP requirements. Therefore no harm was done to any bidders due to an RFP being available.
- All other program rules were followed in every detail.
 - State purchasing laws were followed.
 - o The 28 day waiting period was observed.
 - o All forms were filed within the window.
- Tyler ISD recently completed an exhaustive beneficiary audit in August of 2009 covering the three funding years of submissions immediately preceding this selective review (see page 2 Attachment 6.PDF). The audit covered three years of submissions and over a million dollars in funding requests. We believe the fact that this audit was completed with an outcome of no findings of procedural issues is indicative of our efforts to take program compliance seriously.
- The efforts to acquire a new contract for this service show fiduciary responsibility given it saved the district \$98,653.20 and the E-Rate program \$73,989.90 at the district's discount rate of 75% (the current discount rate has risen to 78%).
- Denial of this funding creates a financial hardship for TISD and puts us in an inequitable position financially compared to our peers.

We would appreciate the Commission's full consideration of our request and will be happy to provide additional information as required.

Respectfully,

John Orbaugh

Director of Technology Services Tyler Independent School District

enclosures:

FCDL for 471 #667379 and FRN 1890273

Administrator's Decision on Appeal

Form 470 with references to RFP notification (Attachment 1.PDF)

Communication with prospective bidders (Attachment 2.PDF)

Newspaper Legal Advertisement (Attachment 3.PDF)

E-mail to TISD Communications Dept. regarding RFP posting (Attachment 4.PDF)

E-mail regarding problems with SLD website (Attachment 5.PDF)

Beneficiary Audit Notes (Attachment 6.PDF)



FUNDING COMMITMENT DECISION LETTER (Funding Year 2009: 07/01/2009 - 06/30/2010)

February 2, 2010

John Orbaugh TYLER INDEP SCHOOL DISTRICT 1319 NEW SUNNYBROOK TYLER, TX 75701

Re: Form 471 Application Number: 667379 Billed Entity Number (BEN): 140714 Billed Entity FCC RN: 0004540688

Applicant's Form Identifier: Tyler-YR12-471-P1

Thank you for your Funding Year 2009 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

The amount, \$275,619.78 is "Approved."

- The amount, \$219,288.96 is "Denied."

Please refer to the Report following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file FCC Form 486, Receipt of Service Confirmation Form. A guide that provides a definition for each line of the Report is available in the Reference Area of our website.

NEXT STEPS

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File Form 486
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity applicant) - as products and services are being delivered and billed

TO APPEAL THIS DECISION:

You have the option of filing an appeal with the SLD or directly with the Federal Communications Commission (FCC).

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

- 1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
- 2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
 - Appellant name,
 - Applicant name and service provider name, if different from appellant, Applicant BEN and Service Provider Identification Number (SPIN), Form 471 Application Number 667379 as assigned by USAC,

 - "Funding Commitment Decision Letter for Funding Year 2009," AND

- The exact text or the decision that you are appealing.
- 3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.

(-64 etc.

- 4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
- Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal Schools and Libraries Division - Correspondence Unit 100 S. Jefferson Road P.O. Box 902 Whippany, NJ 07981

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

OBLIGATION TO PAY NON-DISCOUNT PORTION

Applicants are required to pay the non-discount portion of the cost of the products and/or services to their service provider(s). Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If USAC is being billed via the FCC Form 474, the service provider must bill the applicant at the same time it bills USAC. If USAC is being billed via the FCC Form 472, the applicant pays the service provider in full (the non-discount plus discount portion) and then seeks reimbursement from USAC. If you are using a trade-in as part of your non-discount portion, please refer to our website for more information. information.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division Universal Service Administrative Company

FUNDING COMMITMENT REPORT Billed Entity Name: TYLER INDEP SCHOOL DISTRICT BEN: 140714 Funding Year: 2009

Comment on RAL corrections: FRN(s) modified in accordance with a RAL request.

Form 471 Application Number: 667379

Funding Request Number: 1889200 Funding Status: Funded

Category of Service: Telecommunications Service Form 470 Application Number: 641190000716207 SPIN: 143004662

SPIN: 143004662
Service Provider Name: Southwestern Bell Telephone Company
Contract Number: MTM
Billing Account Number: 214 A43-0010 670 3
Multiple Billing Account Numbers: N
Service Start Date: 07/01/2009
Service End Date: 06/30/2010
Contract Award Date: N/A
Contract Expiration Date: N/A
Contract Expiration Date: N/A
Shared Worksheet Number: 1078359
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$348,317.64
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$348,317.64
Discount Percentage Approved by the USAC: 75%
Funding Commitment Decision: \$261,238.23 - FRN approved as submitted

FCDL Date: 02/02/2010
Wave Number: 038
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2010



FUNDING COMMITMENT REPORT Billed Entity Name: TYLER INDEP SCHOOL DISTRICT BEN: 140714 Funding Year: 2009

Comment on RAL corrections: FRN(s) modified in accordance with a RAL request.

Form 471 Application Number: 667379
Funding Request Number: 1889715
Funding Status: Funded
Category of Service: Telecommunications Service
Form 470 Application Number: 641190000716207
SPIN: 143008823

Service Provider Name: SBC Long Distance, LLC. Contract Number: MTM Billing Account Number: 903-262-1000

Billing Account Number: 903-262-1000
Multiple Billing Account Numbers: N
Service Start Date: 07/01/2009
Service End Date: 06/30/2010
Contract Award Date: N/A
Contract Expiration Date: N/A
Shared Worksheet Number: 1078359
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$7,175.40
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$7,175.40
Discount Percentage Approved by the USAC: 75%
Funding Commitment Decision: \$5,381.55 - FRN approved as submitted

FCDL Date: 02/02/2010 Wave Number: 038

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2010

FUNDING COMMITMENT REPORT Billed Entity Name: TYLER INDEP SCHOOL DISTRICT _BEN: 140714 ____

Funding Year: 2009

Comment on RAL corrections: FRN(s) modified in accordance with a RAL request.

Form 471 Application Number: 667379
Funding Request Number: 1890273
Funding Status: Not Funded
Category of Service: Telecommunications Service
Form 470 Application Number: 641190000716207
SPIN: 143004662

SPIN: 143004662
Service Provider Name: Southwestern Bell Telephone Company
Contract Number: 5 yr WAN
Billing Account Number: 903-262-1000
Multiple Billing Account Numbers: N
Service Start Date: 07/01/2009
Service End Date: N/A
Contract Award Date: 02/10/2009
Contract Expiration Date: 06/30/2014
Shared Worksheet Number: 1078359
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$292,385.28
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$292,385.28
Discount Percentage Approved by the USAC: 75%
Funding Commitment Decision: \$0.00 - Selective - Bidding Violation
Funding Commitment Decision Explanation: DR1: FRN is denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.

FCDL Date: 02/02/2010 Wave Number: 038

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2010



FUNDING COMMITMENT REPORT Billed Entity Name: TYLER INDEP SCHOOL DISTRICT BEN: 140714 Funding Year: 2009

Comment on RAL corrections: FRN(s) modified in accordance with a RAL request.

Form 471 Application Number: 667379 Funding Request Number: 1890410 Funding Status: Funded Category of Service: Telecommunications Service Form 470 Application Number: 641190000716207 SPIN: 143016446 SPIN: 143016446

Service Provider Name: Cebridge Telecom TX, LP

Contract Number: MTM

Billing Account Number: 903-262-1000

Multiple Billing Account Numbers: N

Service Start Date: 07/01/2009

Service End Date: 06/30/2010

Contract Award Date: N/A

Contract Expiration Date: N/A

Shared Worksheet Number: 1078359

Number of Months Recurring Service Provided in Funding Year: 12

Annual Pre-discount Amount for Eligible Recurring Charges: \$12,000.00

Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00

Pre-discount Amount: \$12,000.00

Discount Percentage Approved by the USAC: 75%

Funding Commitment Decision: \$9,000.00 - FRN approved; modified by SLD

Funding Commitment Decision Explanation: MRI: FRN modified in accordance with a RAL request. <><><><><>><>><>><>MR2: The FRN was modified from \$700/m to \$1,000 to agree with the applicant documentation.

applicant documentation.

FCDL Date: 02/02/2010
Wave Number: 038
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2010





Universal Service Administrative Company

Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2009-2010

May 05, 2010

John Orbaugh Tyler Indep School District 1319 New Sunnybrook Tyler, TX 75701

Re: Applicant Name: TYLER INDEP SCHOOL DISTRICT

Billed Entity Number: 140714
Form 471 Application Number: 667379
Funding Request Number(s): 1890273

Your Correspondence Dated: April 01, 2010

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2009 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1890273
Decision on Appeal: Denied

Explanation:

- On the FCC Form 470 associated with your funding request, you indicated that you did not intend to release an RFP for the products and/or services that you sought. During the Selective Review, USAC determined that an RFP was released for the products and/or services requested. Since you failed to inform potential bidding service providers that an RFP was available for the products and/or services requested, USAC denied your request for funding. In your appeal, you did not show that USAC's determination was incorrect. Consequently, your appeal is denied.
- FCC rules require applicants to "submit a complete description of services they seek so that it may be posted for competing service providers to evaluate" and formulate bids. See Federal-State Joint Board on Universal Service, CC Docket

No. 96-45, Report and Order, 12 FCC Rcd 8776, FCC 97-157, paras. 570, 575 (rel. May 8, 1997). The applicant's FCC Form 470 should inform potential bidders if there is, or is likely to be, an RFP relating to particular services indicated on the form. See Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, et al., CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 26407, FCC 03-313 para. 39 (rel. Dec. 8, 2003).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

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High Speed Internet Access Maintenance on Internet Access 10 Internal Connections Ott Do you have a Request for Procheck YES, your RFP must be check YES and your RFP is no have or intend to have an RFP, a YES, I have released or interpretate the Contact Person in Ite b NO, I have not released an Whether you check YES or NO. Specify each service or function (connecting 1 classroom of 30 stufor examples of eligible Internal Connection)	s her than Basic Manager than Basic Manager than Basic Manager to all in available to	Quantity and/or 100 Mbps or be School District laintenance specifies the senterested bidder interested bidder of your funding a RPP for these sentered bidder interested bidder of your funding a RPP for these sentered bidder interested in Item or release an RFP ow the Internal Cob and cabling) and digible Services Lees. Attach additions if you prefer it after paying	prvices you are seeking? Is for at least 28 days. If yours, or if you check NO and requests. Pervices. It is available or witk one): In 12. If or these services. If on these services you seed quantity and/or capacity is at www sluniversalservices at www.sluniversalservices are check this box if you not have a preference.	an RFP and the website where vendors could find the documents.

Attachment 2.pdf

From: Orbaugh, John

Sent: Wednesday, December 24, 2008 4:25 PM

To: john.orbaugh@sbcglobal.net

Subject: RFPs Posted for Bond Construction Projects and Leased Fiber Optic WAN

Good Afternoon and Merry Christmas to All,

You have requested that I notify you when our RFPs are posted for projects related to our bond issue and wide area network. It took a few days longer than I expected, but they are now on our website and ready for your review. The URL to the website is www.tylerisd.org. Look on the right side of the home page for the RFP – Contractor Information hyperlink. Just click the link and you will then see the URLs.

Please be sure to check the website for update to the RFPs. I expect there will be an addendum or two during the process.

Best Wishes to you for a Merry Christmas and a Happy New Year!

John Orbaugh
Director of Technology Services
Tyler Independent School District
Office - 903-262-1085 Fax - 903-262-1164
john.orbaugh@tylerisd.org

Attachment 3.PDF

[Click here and type return address and phone and fax numbers]

Tyler ISD DIRECTOR OF PURCHASING BRUCE BALLARD Phone: 903/262-1120



To:	TBE	Butler -Sherry	From:	Emma Smith Ty	ler ISD
Fax:	903/5	97-4987	Pg	3	
Phone:	903/5	96-6253	Date:	12/19/2008	
Re:	PO#	205144	CC:	[Click here and t	ype name]
□ Urge	nt	☐ For Review	☐ Please Comment	☐ Please Reply	☐ Please Recycle

I will call and verify fax was received . If any questions call John Orbaugh

903-262-1085

Thanks

Emma

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PURCHASE ORDER

205144

1.00

IMPORTANT

AR SHIPPING DUCUMENTS INVOICES AND PACKAGE ABEES MUST CARRY THIS ORDER NUMBER.

PREO#

90302

Vendor:

45880

TO: T B BUTLER PUBLISHING CO INC

P O BOX 2030

TYLER, TX 75710-2030

SHIP TO: TYLER ISD DISTRIBUTION CENTER

1327 NEW SUNNYBROOK TYLER, TX 75701 (903) 262-1104

ATTN: ORBAUGH

School/Dept: 957 Requested By:

Date: 12/19/08

Bid#/Quote#:

TOTAL

Ship: FOB DESTINATION

QUANTITY DESCRIPTION DISCOUNT UNIT PRICE TOTAL EΑ 1.0000 1.00 1 192.53.6399.00.957.9.99.000 ADVERTISEMENT FOR ETHERNET CABLING, ETHERNET SWITCHES & STREAMING VIDEO PRODUCTS & SERVICES - PUBLIC NOTICE SECTION FOR DATES DEC 26, 27 & 28, 2008 PLEASE SEE ATTACHED ADVERTISEMENT

FEIN # 75-6002675

Texas Sales Tex # 1-75-6002675-3

Price increase not authorized without prior approval.

No Collect or COD shipments.

Man invoice to:

Tyler Independent School District P.O Box 2035 Tyler, TX 75710-2035 ATTN: Accounts Psyable

Conflict of Interest Questionnaire for Vendors is available on Tyler ISD website. http://www.tylerisd.org/TISD%20Forms.htm

Bruce Ballard, C.F.M.
Director of Purchasing

VENDOR

LEGAL ADVERTISEMENT

Friday, December 26, 2008

Saturday, December 27, 2008

Sunday, December 28, 2008

The Tyler Independent School District will be accepting proposals for structured Ethernet cabling, Ethernet switches and streaming video products and services. Proposals will be accepted until 2:00 p.m. Tuesday, January 20, 2009 at the Tyler ISD, Administration Building, 1319 New Sunnybrook, Tyler, TX, 75710. Proposal documents are available on the TISD web site (http://www.tylerisd.org/bond2008.htm), and select Contractor Information or the TISD Technology Services Office (same address as administration building), or from Glenn Johnston, Stravis Technologies, at phone (214) 675-7529, or email at gjohnston@straviscorp.com.

Tyler I.S.D. reserves the right to waive any informality and to reject any or all Proposals.

WorkCentre Pro 123

Transmission Report

1

903, 262, 1166

Date/Time: 12/19/2008: 02:46PM Page: 1 (Last Page)

Local Name

TISD Purchasing Dept

Document has been sent.

Dacument Size 8.5X11°SEF

Tyler ISD DIRECTOR OF PURCHASING BRUCE BALLARD Phone 90/3/262/11/20

Fax

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<u>.</u>	PO# 205144		(Click hore and type name)
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MP: Multi Polling RV. Remote Service OF: Box Fax Forward CP. Completed TM: Terminated

Note.
RE. Resend MB: Send to Mailbox BC: Broadcast
PG. Polling RE. Relay Broadcast RS: Relay Send
SA: Send Again EN: Engaged AS: Auto Send



Attachment 4.PDF

Orbaugh, John

From:

Orbaugh, John

Sent:

Tuesday, December 23, 2008 2:58 PM

To:

Jenkins, Angela; Poe, Jessica; Stanley, Sandra

Subject:

Web Site Changes

Good Afternoon,

Just wanted to let you know that I made some small changes to the website today. I have added in to the Bond page the RFPs for the technology components that we are required to post for the E-rate program. I have also added a link on the right side of the home page to point vendors to the Contractor Info page under the bond page where all the RFPs are posted. I put it on the home page because the E-rate website where we have to post this info wouldn't allow the full URL to the bond page to be entered.

Just wanted you to know who was messing with your stuff!

John Orbaugh
Director of Technology Services
Tyler Independent School District
903.262.1085 Fax 903.262.1164
john.orbaugh@tylerisd.org

Attachment 5.PDF

Orbaugh, John

From:

Orbaugh, John

Sent:

Tuesday, December 23, 2008 2:09 PM

To:

Alvin Myers

Subject:

RE: Working on 470

Looks like the website is having a problem. Won't let me in. I click Continue Incomplete and I get an error message to use the Nav buttons. I sent them a note about the problem.

Jöhn Orbaugh
Director of Technology Services
Tyler Independent School District
903.262.1085 Fax 903.262.1164
john.orbaugh@tylerisd.org

From: Alvin Myers [mailto:AMyers@unitedsystemsok.com]

Sent: Tue 12/23/2008 2:01 PM

To: Orbaugh, John

Subject: RE: Working on 470

I am on my way to the office now. Will call in just a few mins.

Sent from my AT&T Samsung i907 Windows Mobile® Smartphone.

----Original Message----

From: Orbaugh, John < John.Orbaugh@tylerisd.org> Sent: Tuesday, December 23, 2008 1:59 PM To: Alvin Myers < AMyers@unitedsystemsok.com>

Subject: RE: Working on 470

I'm at my desk at home and am logging into the website. Call me when you are ready.

John Orbaugh Director of Technology Services Tyler Independent School District 903.262.1085 Fax 903.262.1164 john.orbaugh@tylerisd.org

From: Alvin Myers [mailto: AMyers@unitedsystemsok.com]

Sent: Tue 12/23/2008 11:52 AM

To: Orbaugh, John

Subject: RE: Working on 470

John,

That is fine. I have a lunch with customers at 12:30 so I may not be available until around 2:00.

Sent from my AT&T Samsung i907 Windows Mobile® Smartphone.

----Original Message----

From: Orbaugh, John < John. Orbaugh@tylerisd.org > Sent: Tuesday, December 23, 2008 11:42 AM

To: AMyers@unitedsystemsok.com < AMyers@unitedsystemsok.com>

Subject: Re: Working on 470

I will look at this right after lunch. I will call you as soon a I get on line.

John Orbaugh from my Blackberry Director of Technology Services Tyler Independent School District 903-262-1085 john.orbaugh@tylerisd.org

----Original Message-----

From: Alvin Myers < AMyers@unitedsystemsok.com>

To: Orbaugh, John

CC: Karyn Johnson < KJohnson@unitedsystemsok.com>

Sent: Tue Dec 23 11:37:01 2008 Subject: RE: Working on 470

John,

The 470 is ready for you to review. We need to talk before you submit. Since your RFPs have maintenance language in them for the new internal connections, put each of those categories in the basic maintenance section.

Let me know if you have any questions.

By the way, when you are going through the form, it will stop you at one of the pages and make you click the radio button saying you do not have any ineligible entities. Just click the "no" and proceed.

thanks, Alvin

From: Orbaugh, John [mailto:John.Orbaugh@tylerisd.org]

Sent: Tue 12/23/2008 10:52 AM

To: Alvin Myers

Subject: Re: Working on 470

Thanks. I have a little more running around to do. I should be home after lunch until about 6 this evening.

John Orbaugh from my Blackberry Director of Technology Services Tyler Independent School District 903-262-1085 john.orbaugh@tylerisd.org

----Original Message----

From: Alvin Myers < AMyers@unitedsystemsok.com>

To: Orbaugh, John

CC: Karyn Johnson < KJohnson@unitedsystemsok.com>

Sent: Tue Dec 23 10:39:05 2008 Subject: Working on 470

John,

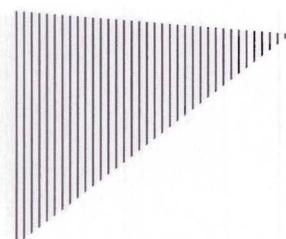
I have started on your Form 470. Here is the Application Number so you will have it for later. We will need to talk to confirm some things before I finalize. I will call once I get to that point.

Form 470 App# 641190000716207

Alvin

It is the policy of Tyler Independent School District not to discriminate on the basis of race, color, national origin, gender, handicap, or age in its employment practices as required by Title VI of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975, as amended; and Section 504 of the Rehabilitation Act of 1973, as amended.

Attachment 6.PDF



REPORT ON COMPLIANCE

Universal Service Administrative Company (USAC)
Tyler Independent School District
(Beneficiary Number 140714)
For Selected Disbursements by USAC
During the Fiscal Year Ended June 30, 2008

No.

Ernst & Young LLP

■ ERNST & YOUNG



Ernst & Young LLP 621 East Pratt Street Baltimore, Maryland 21202

Tel: + 1 410 539 7940 Fax: + 1 410 783 3832 www.ey.com

Report of Independent Accountants

Tyler Independent School District Universal Service Administrative Company Federal Communications Commission

We have examined management's assertions, included in the accompanying Report of Management on Compliance with 47 CFR Part 54, relevant Federal Communications Commissions' ("FCC") Orders, and Universal Service Administrative Company ("USAC") implementing procedures, as applicable, that Tyler Independent School District (the "District") (Beneficiary Number 140714) complied with 47 CFR Part 54 and relevant FCC Orders identified in the accompanying Attachment 1 and USAC implementing procedures, as applicable, (collectively, the "Rules") related to specific support payments of \$1,376,681.16 disbursed from the Universal Service Fund under the Schools and Libraries Support Mechanism during the fiscal year ended June 30, 2008, relative to Funding Years 2005, 2006, and 2007 as listed in Attachment 2. Management is responsible for the District's compliance with those Rules. Our responsibility is to express an opinion on management's assertions about the District's compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence about the District's compliance with those Rules and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on the District's compliance with specified Rules.

In our opinion, management's assertions that the District complied with the aforementioned Rules relative to specific support payments disbursed from the Universal Service Fund under the Schools and Libraries Support Mechanism during the fiscal year ended June 30, 2008, as listed in Attachment 2, are fairly stated, in all material respects.

Internal Control over Compliance

The management of the District is responsible for establishing and maintaining effective internal control over compliance with the Rules. In planning and performing our examination, we considered the District's internal control over compliance with the Rules that could have a direct and material effect on compliance with the Rules in order to determine our examination procedures for the purpose of expressing our opinion on compliance, but not for the purpose of

expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of District's internal control over compliance.

Our consideration of internal control over compliance was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in the entity's internal control that might be significant deficiencies or material weaknesses as defined below.

A control deficiency in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to administer a program such that there is a more than a remote likelihood that noncompliance with a type of compliance requirement that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or a combination of significant deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement will not be prevented or detected by the entity's internal controls. We did not identify any deficiencies in internal control over compliance we consider to be material weaknesses as defined above. However, we have provided a comment related to an immaterial instance of noncompliance in Attachment 3.

The District's response to the comment identified in Attachment 3 to this report is described in Attachment 4. We did not perform an examination of the District's response and accordingly, we express no opinion on it.

We have also included a matter identified as a result of our examination relating to a service provider involved in the program not relating specifically to the District in Attachment 5. Because our examination was directed towards rendering an opinion on the District's compliance with the Rules, we did not perform an examination of compliance relating to the service provider involved in the program or its response, if any, and accordingly, we express no opinion on it.

This report is intended solely for the information and use of District, the USAC, and the FCC, and is not intended to be and should not be used by anyone other than these specified parties.

Ernet + Young LLP

September 8, 2009

Attachment 1 to Report of Independent Accountants Tyler Independent School District 47 CFR Part 54 and Relevant Federal Communications Commission Orders with which Compliance was Examined, As Applicable

Section 54.500 (b) which was effective as of July 21, 2003

Section 54.501 (b), as revised, which was originally effective as of July 17, 1997

Section 54.502, as revised, which was originally effective as of July 17, 1997

Section 54.503, as revised, which was originally effective as of July 17, 1997

Section 54.504 (a) which was effective as of February 12, 1997, with clarification included in FCC Order 03-313, par 39 & 56, which was issued December 8, 2003

Section 54.504 (b) (1), as revised, which was originally effective as of July 17, 1997

Section 54.504 (b) (2), as revised, which was originally effective as of July 17, 1997

Section 54.504 (b) (2) (i) as revised, which was originally effective as of February 12, 1998

Section 54.504 (b) (2) (iii), which was effective as of October 13, 2004

Section 54.504 (b) (2) (iv), which was effective as of October 13, 2004 which superseded Section 54.504 (b) (2) (ii) which was effective as of February 12, 1998

Section 54.504 (b) (2) (v) which was effective as of October 13, 2004

Section 54.504 (b) (2) (vi) which was effective as of October 13, 2004

Section 54.504 (b) (4) which was effective as of January 1, 1999

Section 54.504 (c) which was effective as of February 12, 1998, with clarification included in FCC Order 04-190, par 48, which was issued August 13, 2004

Section 54.504 (c) (1) (vii) which was effective as of October 13, 2004

Section 54.504 (c) (1) (x) which was effective as of October 13, 2004

Section 54.504 (f) which were effective as of March 11, 2004

Section 54.504 which was effective from July 17, 1997, with confirmation of earlier administrative practices included in FCC Order 03-313, paragraph 60, that confirmed earlier administrative practices, which was issued on December 8, 2003, and codified in Section 54.504 (g) which was effective as of March 11, 2004

Section 54.504 which was effective from July 17, 1997, with confirmation of earlier administrative practices included in FCC Order 03-313, paragraph 60, that confirmed earlier administrative practices, which was issued on December 8, 2003, and codified in Section 54.523, which was effective as of March 11, 2004

Section 54.505 (a) which was effective as of July 17, 1997

Section 54.505 (b)² which was effective as of July 17, 1997

Section 54.505 (c), as revised, which was originally effective as of July 17, 1997

Section 54.506 (a), as revised, which was originally effective as of February 12, 1998

Section 54.506 (b) which was effective as of October 13, 2004

¹ Section 54.504 (b) (4) interpreted to mean 'After posting on the Administrator's website an eligible school's, library's, or consortium's FCC Form 470, that entity shall then wait at least four weeks from the date on which its description of services is posted on the Administrator's website before making commitments with the selected providers or services'.

Per FCC Wireline Competition Bureau memorandum with the subject *The E-Rate Program and Apparent*

Per FCC Wireline Competition Bureau memorandum with the subject *The E-Rate Program and Apparent Violations of USDA NSLP Rules* dated February 25, 2005 from Jeffrey J. Carlisle, Chief, Wireline Competition Bureau, to Walker Feaster, Inspector General, summary reports of National School Lunch Program data may be relied upon to support the poverty rate computation.

Attachment 1 to Report of Independent Accountants (continued) Tyler Independent School District

Section 54.50 (d), as revised, which was effective as of July 17, 1997

Section 54.508 (a) which was effective as of October 13, 2004

Section 54.508 (c) which was effective as of October 13, 2004

Section 54.511 (a) which was effective as of July 21, 2003

Section 54.513 (c) which was effective as of March 11, 2004

Section 54.514 (b), as revised, which was originally effective as of July 21, 2003

Section 54.516 (a) (1)³ which was effective as of October 13, 2004

Section 54.520 (c) which was effective as of April 20, 2001

Section 54.523 which was effective as of March 11, 2004, clarified in FCC Order 04-190, paragraph 24 which was issued August 13, 2004

FCC order 00-167, paragraph 10 which was issued on May 23, 2000

.

³ Per FCC Wireline Competition Bureau memorandum with the subject *The E-Rate Program and Apparent Violations of USDA NSLP Rules* dated February 25, 2005 from Jeffrey J. Carlisle, Chief, Wireline Competition Bureau, to Walker Feaster, Inspector General, summary reports of National School Lunch Program data may be relied upon to support the poverty rate computation.

Attachment 2 to Report of Independent Accountants Tyler Independent School District Support Payments Disbursed from the Universal Service Fund under the Schools and Libraries Support Mechanism During the Fiscal Year Ended June 30, 2008

Funding Request	Funding		Amount
Number	Year	Type of Service	<u>Disbursed</u>
1335296	2005	Internal Connections	\$ 171,992.94
1335806	2005	Internal Connections	182,188.08
1335840	2005	Internal Connections	-
1489467	2006	Internal Connections	49,824.00
1489549	2006	Internal Connections	49,824.00
1489610	2006	Internal Connections	-
1489635	2006	Internal Connections	49,824.00
1490029	2006	Internal Connections	131,199.31
1490048	2006	Internal Connections	131,199.31
1490063	2006	Internal Connections	140,707.15
1490075	2006	Internal Connections	-
1490235	2006	Telecommunications	79,613.79
1490335	2006	Telecommunications	44,912.92
1591588	2007	Telecommunications	108,801.88
1591604	2007	Telecommunications	6,132.00
1591616	2007	Telecommunications	230,461.78
		Total	\$1.376,681.16

Attachment 3 to Report of Independent Accountants Tyler Independent School District Detailed Information Relative to

Material Noncompliance, Material Weaknesses, Significant Deficiencies, or Immaterial Instances of Noncompliance Presented in Accordance with the Standards Applicable to Attestation Engagements Contained in Government Auditing Standards

Issue Number

SL2008BE068 C01

Condition

A discounted amount of \$499.54 was added to the payment for Walker Engineering invoice number 6801-06 dated September 22, 2006 related to Funding Request Number ("FRN") 1335806 for Tyler Independent School District (the "District"). The added amount was verbally explained as an adjustment related to a change in building plans; however, no supporting information was provided. As such, the eligibility of such services could not be determined. The total disbursed amount examined was \$863,500.73.

Criteria

Per 47 CFR §54.506 (a): "A service is eligible for support as a component of an institution's internal connections if such service is necessary to transport information within one or more instructional buildings of a single school campus or within one or more non-administrative buildings that comprise a single library branch. Discounts are not available for internal connections in non-instructional buildings of a school or school district, or in administrative buildings of a library, to the extent that a library system has separate administrative buildings, unless these internal connections are essential for the effective transport of information to an instructional building of a school or to a non-administrative building of a library. Internal connections do not include connections that extend beyond a single school campus or single library branch. There is a rebuttable presumption that a connection does not constitute an internal connection if it crosses a public right-of-way."

Per 47 CFR §54.505 (a): "Discounts for eligible schools and libraries shall be set as a percentage discount from the pre-discount price."

Per 47 CFR §54.500 (b): "For purposes of this subpart, activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate and proximate to the provision of library services to library patrons, qualify as 'educational purposes.' Activities that occur on library or school property are presumed to be integral, immediate, and proximate to the education of students or the provision of library services to library patrons."

Cause

The Tyler personnel did not document the adjustment.

Effect

An amount of \$499.54 is subject to recovery by the Universal Service Administrative Company.

Attachment 3 to Report of Independent Accountants (continued) Tyler Independent School District

Recommendation All adjustment amounts should have documented explanations.

Beneficiary Response See Attachment 4.

Attachment 4 to Report of Independent Accountants Tyler Independent School District Beneficiary Responses to Detailed Information Relative to Material Noncompliance, Material Weaknesses, Significant Deficiencies, or Immaterial Instances of Noncompliance Presented in Accordance with the Standards Applicable to Attestation Engagements Contained in Government Auditing Standards

Issue Number: SL2008BE068_C01

Beneficiary Response: "The district concurs with the comment. The vendor failed to properly document the budget adjustment and the district made payment based on the approval of the bond construction consultant."

Attachment 5 to Report of Independent Accountants Tyler Independent School District Matters Relating to Service Providers and Other Parties

Issue Number

SL2008BE068 C02

Condition

AT&T (formerly Southwestern Bell Telephone Company) provided schedules of amounts billed to the Universal Administrative Service Company ("USAC") for telecommunications services. These amounts were less than the amounts on the AT&T invoices issued to the Tyler Independent School District (the "District") due to AT&T's removal of unspecified ineligible services. An analysis of the charges on the invoices revealed ineligible amounts in excess of the amounts AT&T deducted. A summary of the amounts by invoice and account is as follows. All items related to AT&T account 9032621092.

Funding Request Number	Vendor	Invoice Date	Discounted Amount
1490235	AT&T	December 15, 2006	\$1,184.79
1490235	AT&T	February 15, 2007	1,361.76
1490235	AT&T	June 15, 2007	2,144.09
1591588	AT&T	September 15, 2007	108.31
1591588	AT&T	November 15, 2007	83.21
1591588	AT&T	January 15, 2008	1,135.04
1591588	AT&T	February 15, 2008	3,241.84
		Total	\$9,259.04

A total of \$863,500.73 was examined.

Criteria

Cause

Effect

Per 47 CFR §54.502: "For purposes of this subpart, supported telecommunications services provided by telecommunications carriers include all commercially available telecommunications services in addition to all reasonable charges that are incurred by taking such services, such as state and federal taxes. Charges for termination liability, penalty surcharges, and other charges not included in the cost of taking such service shall not be covered by the universal service support mechanisms."

Per 47 CFR §54,505 (a): "Discounts for eligible schools and libraries shall be set as a percentage discount from the pre-discount price."

The cause could not be determined because no audit procedures were

performed at AT&T.

An amount of \$9,259.04 is subject to recovery by the Universal

Service Administrative Company.

Recommendation There is no recommendation because no audit procedures were

performed at AT&T.

Other Party Response AT&T did not provide a response.



1319 New Sunnybrook • P.O. Box 2035 • Tyler, Texas • 75710 • 903-262-1000 • Randy Reid, Ed. D., Superintendent

Report of Management on Compliance with 47 CFR Part 54 of the Federal Communications Commission's Rules and Regulations, Related FCC Orders, and USAC Implementing Procedures

September 8, 2009

Management of Tyler Independent School District (the "District") is responsible for ensuring the District's compliance with applicable requirements of 47 CFR Sections 54.500 through 54.523 of the Federal Communications Commission's ("FCC") Rules and Regulations for Universal Service Support for Schools and Libraries, as amended, related FCC Orders, and Universal Service Administrative Company ("USAC") implementing procedures.

Management has performed an evaluation of the District's compliance with the applicable requirements of 47 CFR Section 54.500 through 54.523, as amended, related FCC Orders, and USAC implementing procedures with respect to disbursements made from the Universal Service Fund under the Schools and Libraries Support Mechanism during the year July 1, 2007 through June 30, 2008 on our behalf as listed on Attachment 1. Based on this evaluation, we assert that the District complied with all applicable requirements of 47 CFR Sections 54.500 through 54.523, as amended, related FCC Orders, and USAC implementing procedures in all material respects.

The District used various organizations as its service providers relative to the Funding Request Numbers ("FRN") for which disbursements were made during the year July 1, 2007 through June 30, 2008. In addition to providing the goods and services for which the disbursements were made relative to those FRNs, the service providers performed the following specific functions to qualify as a service provider for the Schools and Libraries Support Mechanism and on behalf of the District, as applicable:

- > Prepared and submitted FCC Forms 473, Service Provider Annual Certification Form
- Prepared and submitted FCC Forms 474, Service Provider Invoice
- Received disbursements from the Universal Service Fund as requested by FCC Forms 472, Billed Entity Applicant Reimbursement, or FCC Forms 474, Service Provider Invoice
- Reimbursed the District of disbursements from the Universal Service Fund as requested by FCC Forms 472, Billed Entity Applicant Reimbursement

The District has obtained and relied upon assurance from the service providers to verify that controls and procedures relating to these assertions have been established and maintained by the service providers in accordance with all applicable requirements of 47 CFR Sections 54.500 through 54.523, as amended, related FCC Orders, and USAC implementing procedures.

The District represents the following assertions per the FCC Rules and Regulations, as amended, related FCC Orders, and USAC implementing procedures with respect to disbursements made from the Universal Service Fund during the year ended June 30, 2008, on our behalf as listed in Attachment 1:

A. Record Keeping - The District:

- 1. maintained for its purchases of telecommunications and other supported services at discounted rates the kind of procurement records that it maintains for other purchases. (Section 54.516 (a) which was effective from July 17, 1997 through October 12, 2004) This assertion is not applicable because the disbursements selected for examination by the FCC OIG were for funding years after the effective period of the assertion.
- 2. retained all documents, to date, related to the application for, receipt, and delivery of discounted telecommunications and other supported services. Also, any other document that demonstrated compliance with the statutory or regulatory requirements for the schools and libraries mechanism was retained. (Sections 54.516 (a) (1) and 54.504 (c) (1) (x) which were effective as of October 13, 2004 and require a five-year retention period for such documents)
- 3. maintained, to date, asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment. (Section 54.516 (a) which was applicable from March 11, 2004 to October 12, 2004 and Section 54.516 (a) (1) which was effective as of October 13, 2004, both of which require maintenance of such records for a period of five years after purchase)

B. Application Matters - The District:

- requested discounts from the Universal Service Fund for telecommunications and other supported services only for schools that meet the statutory definition of elementary and secondary schools found under section 254(h) of the Communications Act of 1934, as amended in the No Child Left Behind Act of 2001, 20 U.S.C. 7801(18) and (38), do not operate as for-profit businesses, and do not have endowments exceeding \$50 million. (Section 54.504 (b) (2) (i) which was effective as of October 13, 2004 and superseded Section 54.504 (b) (2) (i) which was effective as of February 12, 1998; as well as Section 54.501 (b), as revised, which was originally effective as of July 17, 1997)
- 2. submitted a completed FCC Form 470, including the required certifications, signed by the person authorized to order telecommunications and other supported services. (Section 54.504 (b) (2), as revised, which was originally effective as of July 17, 1997)
- 3. had the resources required to make use of the services requested, or such resources were budgeted for purchase for the current, next or other future academic years, at the time the FCC Form 470 was filed. (Section 54.504 (b) (1), as revised, which was originally effective as of July 17, 1997; and Section 54.504 (b) (2) (vi) which was effective as of October 13, 2004 and superseded Section 54.504 (b) (2) (v) which was effective as of July 17, 1997)
- 4. had a technology plan for using the services requested at the time of filing the FCC Form 470 that had been or would be approved by its state or other authorized body prior to the receipt of the requested services. (Sections 54.504 (b) (2) (iii) and (iv); as well as 54.508 (c) which were effective as of October 13, 2004)
- 5. the technology plan for using the services requested in the FCC Form 470 included the following elements: (Section 54.508 (a) which was effective as of October 13, 2004)

- a. a statement of goals and a strategy for using telecommunications and information technology to improve education;
- b. a professional development strategy to ensure that the staff understands how to use these new technologies to improve education;
- c. an assessment of the telecommunication services, hardware, software, and other services that will be needed to improve education;
- d. a budget sufficient to acquire and support the non-discounted elements of the plan: the hardware, software, professional development, and other services that will be needed to implement the strategy; and
- e. an evaluation process that enables the school to monitor progress toward the specific goals and make mid-course corrections in response to new developments and opportunities as they arise.
- 6. had a technology plan that had been certified by its state, USAC or an independent entity approved by the FCC at the time of filing the FCC Form 470. (Sections 54.504 (b) (2) (vii) which was effective from July 17, 1997 to October 12, 2004) This assertion is not applicable because the disbursements selected for examination by the FCC OIG were for funding years after the effective period of the assertion.
- 7. accurately determined its level of poverty, for use in determining its available discount rate, by using the percentage of its student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism in the public school district in which they are located. (Section 54.505 (b) which was effective as of July 17, 1997)
- 8. accurately applied the approved discount matrix, with the correct consideration of urban or rural location, to its determined level of poverty to set its discount rate to be applied to eligible goods and/or services. (Section 54.505 (c), as revised, which was originally effective as of July 17, 1997)
- 9. submitted a completed FCC Form 471 only after signing a contract for eligible goods and/or services. (Section 54.504 (c) which was effective as of February 12, 1998)
- 10. requested, and funds were disbursed by the Universal Service Fund for, only eligible goods and services. (Sections 54.504 (b) (1) which was effective as of July 17, 1997 and 54.504 (c) which was effective as of February 12, 1998)
- 11. submitted a certification on FCC Form 486 that an Internet safety policy is being enforced and complied with the certification such that: (Section 54.520 (c) which was effective as of April 20, 2001)
 - a. it enforced a policy of Internet safety that includes monitoring the online activities of minors and the operation of a technology protection measure, with respect to any of its computers with Internet access, that protects against access through such computers to visual depictions that are obscene, child pornography or harmful to minors (Section 54.520 (c) (1) (i) which was effective as of April 20, 2001); and
 - b. its Internet safety policy addresses each of the following (Section 54.520 (c) (1) (ii) which was effective as of April 20, 2001):
 - c. access by minors to inappropriate matter on the Internet and World Wide Web;
 - d. the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;
 - e. unauthorized access, including so-called 'hacking', and other unlawful activities by minors online;

- f. unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and
- g. measures designed to restrict minors' access to materials harmful to minors.

C. Service Provider Selection Matters - The District:

- made a request for competitive bids for all eligible goods and/or services for which Universal Service Fund support was requested and complied with applicable state and local procurement processes included in its documented policies and procedures. (Section 54.504 (a) which was effective as of February 12, 1998, with clarification included in FCC Order 03-313, paragraphs 39 and 56, which was issued December 8, 2003 and was effective for Funding Year 2005)
- waited at least four weeks after the posting date of the FCC Form 470 on the USAC Schools and Libraries
 website before making commitments with the selected service providers. (Section 54.504 (b) (4) which was
 effective as of January 1, 1999)
- considered all bids submitted and selected the most cost-effective service offering, with price being the primary factor considered. (Section 54.511 (a) which was effective as of July 21, 2003)
- 4. considered all bids submitted and selected the most cost-effective service offering.

 (Section 54.511 (a) which was effective from July 17, 1997 through July 20, 2003) This assertion is not applicable because the disbursements selected for examination by the FCC OIG were for funding years after the effective period of the assertion.
- did not surrender control of its competitive bidding process to a service provider that participated in that bidding process and did not include service provider contact information on its FCC Forms 470. (FCC Order 00-167, paragraph 10, which was issued on May 23, 2000)

D. Receipt of Services and Reimbursement Matters - The District:

- 1. applied its discount percentage to the appropriate pre-discount price. (Section 54.505 (a) which was effective as of July 17, 1997)
- 2. received reimbursement from its service provider for purchases for which it had paid full price to the service provider. (Section 54.514 (b), as revised, which was originally effective as of July 21, 2003 as confirmation of earlier administrative practices)
- 3. requested amounts, and funds were disbursed by the Universal Service Fund, related to service substitutions that provided the same functionality and were based on the lower of the pre-discount price of the service for which support was originally requested or the pre-discount price of the new, substituted service. (Section 54.504 (f) which was effective as of March 11, 2004 as confirmation of earlier administrative practices)
- 4. used the services requested solely for educational purposes. (Section 54.504 (b) (2) (v) which was effective as of October 13, 2004 and superseded Section 54.504 (b) (2) (ii) which was effective as of February 12, 1998; as well as Section 54.504 (c) (1) (vii) which was effective as of October 13, 2004, and Section 54.500 (b) which was effective as of July 21, 2003)
- with respect to eligible services and equipment components purchased at a discount: (Section 54.504 (b) (2) (v) which was effective as of October 13, 2004 and superseded Section 54.504 (b) (2) (iii) which was effective July 17, 1997; and Section 54.513 (c) which was effective March 11, 2004)
 - a. did not sell or resell such items for money or any other thing of value;
 - b. did not transfer such items, with or without consideration of money or any other thing of value, for a
 period of three years after purchase, or to date, other than in the event that such transfer was made to
 another eligible school or library in the event the particular location where the service was originally
 received was permanently or temporarily closed;
 - c. notified USAC of any such allowable transfer, and
 - d. maintained, as did the recipient, detailed records documenting the transfer and the reason for the transfer date.

- paid all "non-discount" portions of requested goods and/or services. (Section 54.523 which was effective as
 of March 11, 2004; and was clarified in FCC Order 04-190, paragraph 24, which was issued August 13,
 2004; as well as Section 54.504 (b) (2) (v) which was effective from July 17, 1997 through March 10,
 2004)
- 7. allocated the costs of any contract that included both eligible and ineligible components to those eligible and ineligible components in the related request for discount. (Section 54.504, which was effective as of July 17, 1997, with confirmation of earlier administrative practices included in FCC Order 03-313, paragraph 60, which was issued on December 8, 2003, and codified in Section 54.504 (g) which was effective as of March 11, 2004)
- 8. deducted from the pre-discount cost of services, indicated in funding requests, the value of all price reductions, promotional offers and "free" products or services. (Section 54.504 which was effective as of July 17, 1997, with confirmation of earlier administrative practices included in FCC Order 03-313, paragraph 60, that confirmed earlier administrative practices, which was issued on December 8, 2003, and codified in Section 54.523 which was effective as of March 11, 2004)

Dr. Randy Keid

Superintendent of Schools

Tosha Bjork

Chief Financial Officer

John Orbaugh

E-Rate Coordinator

Funding Request <u>Number</u>	Funding <u>Year</u>	Type of Service	Amount <u>Disbursed</u>
1335296	2005	Internal Connections	\$ 171,992.94
1335806	2005	Internal Connections	182,188.08
1335840	2005	Internal Connections	-
1489467	2006	Internal Connections	49,824.00
1489549	2006	Internal Connections	49,824.00
1489610	2006	Internal Connections	-
1489635	2006	Internal Connections	49,824.00
1490029	2006	Internal Connections	131,199.31
1490048	2006	Internal Connections	131,199.31
1490063	2006	Internal Connections	140,707.15
1490075	2006	Internal Connections	-
1490235	2006	Telecommunications	79,613.79
1490335	2006	Telecommunications	44,912.92
1591588	2007	Telecommunications	108,801.88
1591604	2007	Telecommunications	6,132.00
1591616	2007	Telecommunications	230,461,78
		Total	\$1,376,681,16

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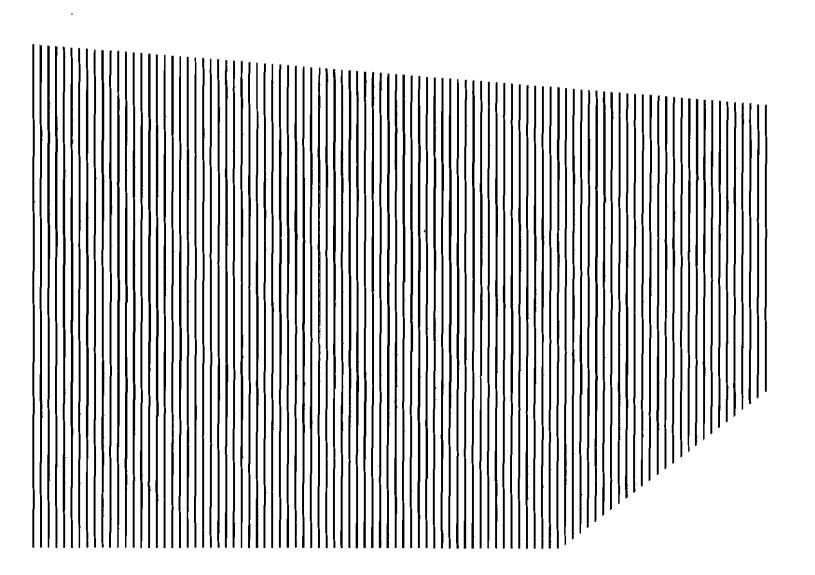
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USAC Management Response

Date: November 16, 2009

Subject: Federal Communications Commission, Office of Inspector General, Universal

Service Fund (FCC OIG USF) Audit of the Schools & Libraries Program at

Tyler Independent School District

USAC management has reviewed the FCC OIG USF Audit of the Tyler Independent School District. Our response to the audit is as follows:

Finding ID: SL2008BE068_C01

Finding/Comment Narrative:

A discounted amount of \$499.54 was added to the payment for Walker Engineering invoice number 6801-06 dated September 22, 2006 related to Funding Request Number 1335806. The added amount was verbally explained as an adjustment related to a change in building plans; however, no supporting information was provided. As such, the eligibility of such services could not be determined. The total disbursed amount examined was \$863,500.26.

Management Comment:

On FCC Form 472, Billed Entity Applicant Reimbursement Form (BEAR), the authorized person certifies at Block 3, Item A, that discount amounts for which reimbursement is sought "represent charges for eligible services delivered to and used by" eligible entities. USAC management concurs with the comment, effect, and recommendation, and will seek recovery of \$499.54.

Finding ID: SL2008BE068_C02

Finding/Comment Narrative:

AT&T (formerly Southwestern Bell Telephone Company) provided schedules of amounts billed to the Universal Administrative Service Company ("USAC") for telecommunications services. These amounts were less than the amounts on the AT&T invoices issued to the Tyler Independent School District due to AT&T's removal of unspecified ineligible services. An analysis of the charges on the invoices revealed ineligible amounts in excess of the amounts AT&T had deducted. A total of \$863,500.20 was examined.

Management Comment:

USAC will reach out to the service provider for an explanation of the discrepancy in ineligible amounts. If the discrepancy cannot be accounted for, USAC will seek recovery of \$9,259.04. USAC management concurs with the comment and recommendation.

This concludes the USAC management response to the audit.